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OFFICE OF PETITIONS

In re Application of
Edward Magid
Application No. 10/705,621
Filed: November 10, 2003
Attorney Docket No.: P662

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 14, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on October 14, 2004, for failure to timely submit the issue fee as required by the Notice of Allowance and Issue Fee Due mailed July 13, 2004, which set a three (3) month statutory period for reply. Petitioner filed an Issue Fee Transmittal on October 14, 2004 (certificate of mailing October 11, 2004) with a check in the amount of \$985.00, for the amount of the issue fee and publication fee. When the USPTO attempted to collect the funds, the check was returned by the bank it was drawn on as insufficient funds were in the account to satisfy the disbursement. As the issue fee was not timely paid, the application became abandoned. Accordingly, a Notice of Abandonment was mailed November 12, 2004. A petition to revive was filed November 22, 2004 under 37 CFR 1.137(a) but was dismissed in a decision mailed February 2, 2005.

Comes now petitioner with this petition under the unintentional standard.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

Since the issue fee was previously paid with the petition filed November 22, 2004, and all other requirements having been met, this matter is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
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Office of Petitions